

‘AMAL V. ḤADĪTH IN ISLAMIC LAW:
THE CASE OF SADL AL-YADAYN (HOLDING ONE’S HANDS BY
ONE’S SIDES) WHEN DOING THE PRAYER*

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Abstract

Most Muslims today understand the term *sunna* to refer to the *sunna*, or normative practice, of the Prophet as contained in the standard collections of Prophetic *ḥadīth*. Because of the relatively late appearance of these collections, and the frequent anomalies between their contents and those of early *fiqh* sources, many Western scholars have concluded that the concept of the “*sunna* of the Prophet” is a secondary development that is not reflected in the earliest stages of Islamic law. The issue of *sadl al-yadayn*, where a substantial body of Sunni—and all non-Sunni—opinion holds to a judgment based on ‘*amal* (“practice”) in overt rejection of numerous Prophetic *ḥadīths*, suggests that we have to reinstate the traditional picture of an early concept of the *sunna* of the Prophet, but as defined by ‘*amal* rather than *ḥadīth*.

Introduction

IN HIS *ORIGINS*, Schacht, following Margoliouth, put forward the idea that *sunna* as a principle of law meant originally the ideal or normative usage of the community and that only later, particularly as a result of the efforts of al-Shāfi‘ī (d. 204/820), did it acquire the restricted meaning of precedents set by the Prophet.¹ Because of what Schacht considered to be a constant divergence between the “old” concept of *sunna* or “living tradition” of the individual schools of law, and the later concept of *sunna* as the “*sunna* of the Prophet” embodied exclusively in authentic *ḥadīths*, he concluded that these *ḥadīths* were, generally-speaking, later fabrications used as a device to give authority to the doctrines of the individual schools.² For this reason he saw the concern for the *sunna* of the Prophet that is evident in the concern for Prophetic *ḥadīth* as a later development within Islamic law.

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¹ See Joseph Schacht, *The Origins of Muhammadan Jurisprudence* (Oxford: Clarendon Press, 1950), 58.

² See *Origins*, 80.

On the Muslim side, all Sunnī Muslims—as their name implies—purport to derive their *fiqh* from the *sunna* or normative practice of the Prophet, after the primary source of the Qur’ān. However, there has never been agreement among them on how to define this *sunna*, for although the Ḥanafis, Shāfi’is and Ḥanbalis effectively equate *sunna* with *ḥadīth*, this has never been the position of the traditional Mālīkīs, for whom *‘amal*, that is, the inherited practice of the people of Madina, is seen as a more trustworthy source of *sunna*, and therefore higher than *ḥadīth*. Thus it is that from the Mālīkī point of view there are not only many *ḥadīths* which do not represent *sunna*, but also many aspects of *sunna* which are not recorded in *ḥadīth*, which is to say not only that *ḥadīth* may or may not record *sunna* but also that *sunna* may or may not be recorded by *ḥadīth*. Since the Mālīkī school (*madhhab*) represents the earliest and most conservative form of Islamic law, namely, that of Madina in the first and second centuries AH, an understanding of this attitude of theirs to *sunna*, *ḥadīth* and *‘amal* in contrast to that of the later schools is crucial to an understanding of the nature and development of early Islamic law.

In this article I investigate one specific instance of *‘amal* being preferred to *ḥadīth* by Mālīk and the Madinans, namely, the issue of *sadl* v. *qabd*, i.e. whether the hands should be held freely by one’s sides while doing the prayer, or whether they should be held in front of one with the right hand clasping the left, either above or below the navel. This is a particularly interesting example in that it shows a concerted body of later Sunnī opinion against the Mālīkīs on this point, but agreement with them on the part of certain earlier Sunnī authorities and all the non-Sunnī sects. Within the Sunnī camp what we find is a basic disagreement on how to define *sunna*, with the simple claim of the Mālīkīs being that the non-textual source of *‘amal* is a better representative of *sunna* than the textual source of authentic *ḥadīth*. The corollary of this claim is that, contrary to the views of both Schacht and al-Shāfi‘ī and their followers among modern Western and traditional Muslim scholars respectively, there is a concept of the *sunna* of the Prophet that is accepted by (certain) traditional Muslim scholars that does not necessarily have anything to do with the collections of *ḥadīth* that are later assumed to be the sole repositories of “the *sunna*.”

Furthermore, although this detail of *sadl al-yadayn* comes under the heading of the more private zone of acts of worship (*‘ibādāt*) rather than the more public one of interpersonal dealings (*mu‘āmalāt*), it nevertheless illustrates a principle that applies throughout Islamic law.

Indeed, it is precisely about the juxtaposition of theory or, we might say, a theoretical approach (the interpretation of what was recorded as texts, or *ḥadīth*) and practice (what was transmitted as action, or ‘*amal*’), always an area of tension throughout the history of Islam. It helps us understand what *sunna* originally meant in the discourse of the Muslims and illustrates how an essential change in the theoretical definition of the word led to an essential change in the development and practical expression of the law.

The case of sadl al-yadayn

In his *Muwattaʿ*, Mālik (d. 179/795) records the following two texts—understood to be Prophetic *ḥadīths*—in a chapter entitled “Putting One Hand Over the Other When Doing the Prayer”:

Yahyā told me, from Mālik, that ‘Abd al-Karīm b. Abī al-Mukhāriq al-Baṣrī said: “Among the words of prophecy (*min kalām al-nubuwwa*) are: If you do not feel ashamed, do as you wish; putting the hands one over the other when doing the prayer, that is, putting the right over the left; and hurrying to break the fast and delaying the pre-dawn meal.”

He also told me, from Mālik, from Abū Ḥāzim b. Dinār, that Sahl b. Sa’d said: “People used to be told that a man should put his right hand over his left arm when doing the prayer.” Abū Ḥāzim added, “As far as I know, he traces that back [i.e. to the Prophet].”³

In the *Mudawwana*, on the other hand, Ibn al-Qāsim (d. 191/806) relates that Mālik said, about putting the right hand over the left when doing the prayer: “I do not know of this practice as far as obligatory prayers are concerned (*lā aʿrifu dhālika fī al-farīda*), but there is no harm in someone doing it in voluntary prayers (*nawāfil*), if he has been standing for a long time, in order to make things easier for himself.” Saḥnūn, the transmitter of the *Mudawwana*, then records a *ḥadīth* from Ibn Wahb, from Sufyān al-Thawrī, from “more than one (*ghayr wāḥid*)” of the Companions of the Prophet, that they had seen the Prophet doing the prayer having put his right hand over his left.⁴

³ Mālik b. Anas, *al-Muwattaʿ*, transmission of Yahyā b. Yahyā al-Laythī, (Cairo: Maṭbaʿat Muṣṭafā al-Bābī al-Ḥalabī, 1370/1951) [hereinafter *Muw.*], vol. i, 133.

⁴ *Al-Mudawwana al-kubrā*, opinions of Mālik, Ibn al-Qāsim and others, compiled by Saḥnūn (Cairo: Maṭbaʿat al-Saʿāda, 1323-24 [1905-06]) [hereinafter *Mud.*], vol. i, 74; cf. Ibn Rushd [al-Jadd], *al-Bayān waʾl-taḥṣīl*, ed. Muḥammad Ḥajjī (Beirut: Dār al-Gharb al-Islāmī, 1404-07/1984-87), vol. xviii, 71. There are four other views recorded from Mālik, namely: (i) the transmission of the Egyptian Ashhab (d. 204/819) and the Madinan Ibn Nāfiʿ (d. 186/802) in the *ʿUthbiyya*, that both *sadl* and *qabḍ* are equally acceptable in both obligatory and voluntary prayers

If we look at the classical collections of *fiqh*, we find that most of the Mālikīs go by the judgment in the *Mudawwana*, i.e. that *sadl* is preferable (although there are some Mālikīs who do not hold this view),⁵ but that the other surviving Sunnī *madhhabs*—the Ḥanafīs, Shāfi'īs and Ḥanbalīs—are agreed on *qabḍ*.⁶ The non-Sunnī *madhhabs*, however—the Ithnā 'Asharī Shī'a, the Zaydis, the Ismā'īlis and the Ibādīs (Khawārij)—are all agreed, along with the majority of the Mālikīs, on *sadl*.⁷

It is this seeming discrepancy in the Sunnī position and the implications behind it that are the subject of this essay.

(see Ibn Rushd, *Bayān*, vol. i, 394-95, vol. xviii, 71; *Mud.* vol. i, 74, n. 1; Muḥammad 'Abid b. al-Shaykh Husayn, *al-Qawl al-faṣl fī ta'yīd sunnat al-sadl* (Makka: Maṭba'at al-Taraqqi al-Mājidīyya, 1329 [1911]), 23, quoting al-Bannānī's *Hāshiya*); (ii) the transmission from the Iraqi followers of Mālik that *qabḍ* should not be done in either (see al-Bāji, *al-Muntaqā, sharḥ al-Muwatta'* (Cairo: Maṭba'at al-Sa'āda, 1331 [1913]), vol. i, 281; Muḥammad 'Abid, *Qawl*, 19, 21, quoting al-'Abbi's *Sharḥ* on Muslim and Khalīl's *Tawḍīḥ*); (iii) a transmission specifically from the Basrans among the Iraqis that *sadl* is recommended for obligatory prayers and *qabḍ* for voluntary ones (see Muḥammad 'Abid, *Qawl*, 20-21, quoting al-Nawawī's *Sharḥ* on Muslim); (iv) the transmission of the Madīnans Muṭarrif (d. 214/829) and Ibn al-Mājiṣhūn (d. 212/827) in the "Wādiḥa," as also of the Egyptian Ibn 'Abd al-Ḥakam (d. 214/829) and, according to al-Bāji, one of two transmissions from the Iraqis, that *qabḍ* is recommended in both (see Ibn Rushd, *Bayān*, vol. i, 395, vol. xviii, 72; *Mud.* vol. i, 74, n. 1; al-Bāji, *Muntaqā*, vol. i, 281; Muḥammad 'Abid, *Qawl*, 19, 23, quoting al-Zayn al-'Irāqī's *Sharḥ* on al-Tirmidhī and al-Bannānī's *Hāshiya*). However, in cases of disagreement it is Ibn al-Qāsim's transmission from Mālik, or more generally that of the Egyptians, that is usually given preference (see Ibrāhīm al-Zayla'ī, Introduction to *Masā'il lā yu'dharu fihā bi-l-jahl, sharḥ al-'allāma al-Amīr 'alā manzūmaṭ Bahrām* (2nd ed., Beirut: Dār al-Gharb al-Islāmī, 1406/1986), 10; Muḥammad 'Abid, *Qawl*, 26-27, 34; also below, n. 85).

⁵ For the standard Mālikī position of later times, see, for example, Khalīl, *Mukhtaṣar Khalīl*, ed. Tāhir Aḥmad al-Zāwī (Cairo: Dār Iḥyā' al-Kutub al-'Arabīyya, n.d.), 29, where "*sadl yadayhi*" is given as one of the recommended aspects of the prayer. Among Mālikī authorities preferring *qabḍ*, Ibn 'Abd al-Barr (d. 463/1071), al-Lakhmī (d. 478/1085), Ibn Rushd [al-Jadd] (d. 520/1126), Abū Bakr b. al-'Arabī (d. 543/1148), al-Qādī 'Iyād (d. 544/1149), Ibn 'Abd al-Salām (d. 660/1262), al-Qarāfi (d. 684/1285) and Ibn Juzayy (d. 741/1340) are mentioned by Muḥammad 'Abid (*Qawl*, 23).

⁶ Ḥanafīs: Mālik b. Anas, *al-Muwatta'*, transmission of Muḥammad b. al-Ḥasan al-Shaybānī, ed. 'Abd al-Wahhāb 'Abd al-Latīf (Beirut: Dār al-Qalam, n.d.) [hereinafter *Muw. Sh.*], 104; al-Sarakhsī, *al-Mabsūṭ* (Cairo: Maṭba'at al-Sa'āda, 1324-31 [1906-12]), vol. i, 23-24. Shāfi'īs: al-Muzanī, *al-Mukhtaṣar*, on the margin of al-Shāfi'ī, *Kitāb al-Umm* (Cairo: al-Maṭba'a al-Kubrā al-Amīriyya, 1321-26 [1903-08]), vol. i, 70-71. Ḥanbalīs: Ibn Qudāma, *al-Mughnī* (Cairo: Hajar li-l-Tibā'a etc, 1406/1986), vol. ii, 144-45.

⁷ Ithnā 'Asharī Shī'a: al-Ḥurr al-'Āmilī, *Wasā'il al-Shī'a* (4th ed., Beirut: Dār Iḥyā' al-Turāth al-'Arabī, 1391 [1971]), vol. ii (part 2), 710. Zaydis: Ibn al-Murtaḍā, *al-Baḥr al-zakḥkhār* (Cairo: Maṭba'at al-Sa'āda, 1366-68/1947-49), vol. i, 241. Ismā'īlis: al-Nu'mān b. Muḥammad, *Da'ā'im al-Islām*, ed. Aṣaf 'Alī Aṣghar Fayḍī [Fyzee] (Cairo: Dār al-Ma'ārif, 1383/1963), vol. i, 159. Ibādīs: al-Muṣ'abī, *Kitāb al-Nil wa-shifā' al-'alil* (Cairo: al-Maṭba'a al-Bārūniyya, 1305 [1888]), vol. i, 57.

The ḥadīth texts

Since the Sunnīs, as we have noted, all purport to base their *fiqh* on “the *sunna*,” understood to be the *sunna* of the Prophet, and since most of them consider this *sunna* to be recorded in the books of *ḥadīth*, particularly the “Six Books” of al-Bukhārī, Muslim, Abū Dāwūd, al-Tirmidhī, al-Nasā’ī and Ibn Mājah, we shall first see what these books have to say about *qabḍ* and *sadl*, having already noted the two *ḥadīths* that Mālik records on the subject.

Al-Bukhārī (d. 265/870)

In his *Ṣaḥīḥ*, al-Bukhārī records one *ḥadīth* on the subject, namely, the same that Mālik records from Sahl b. Sa’d in the *Muwatta’*. (Al-Bukhārī relates it from Mālik, via al-Qa’nabī).⁸

Muslim (d. 261/875)

In his *Ṣaḥīḥ*, Muslim records a *ḥadīth* from Wā’il b. Ḥujr who describes how, when he visited Madina, he saw the Prophet doing the prayer with his right hand over his left.⁹

Abū Dāwūd (d. 275/888)

Abū Dāwūd, in his *Sunan*, records nine *ḥadīths* indicating *qabḍ*: three versions of the Wā’il *ḥadīth*; a report from Ibn al-Zubayr¹⁰ to the effect that *qabḍ* is “part of the *sunna*”; a *ḥadīth* from Ibn Mas’ūd to the effect that the Prophet saw him praying with his left hand over his right and so took hold of his right hand and put it over his left instead; a report from ‘Alī that it is *sunna* to put one hand over the other when doing the prayer, below the navel; another to the effect that ‘Alī used to do the prayer with the right hand holding the left, but above the navel; one from Abū Hurayra to the effect that *qabḍ* should be below the navel; and a *mursal ḥadīth* from Ṭāwūs that the Prophet used to pray with *qabḍ*. There is also a report from Sa’īd b. Jubayr that *qabḍ* should be

⁸ See al-Bukhārī, *al-Jāmi’ al-Ṣaḥīḥ*, ed. Ludolf Krehl (Leiden: E.J. Brill, 1862-1907), vol. i, 191-92.

⁹ See Muslim, *al-Jāmi’ al-Ṣaḥīḥ*, ed. Muḥammad Dhīhni (Istanbul: Dār al-Ṭibā’a al-‘Āmira, 1329-33/1911-15), vol. ii, 13.

¹⁰ That is, the Companion ‘Abdallāh b. al-Zubayr rather than the Successor ‘Urwa, for which identification, see, for example, Ibn ‘Abd al-Barr, *al-Tamhīd li-mā fi al-Muwatta’ min al-ma’ānī wa’l-asānīd* (Mohammedia: Wizārat al-Awqāf wa’l-Shu’ūn al-Islāmiyya, 1397-1411/1977-91), vol. xx, 74, 73; al-Shawkānī, *Nayl al-awṭār* (Beirut: Dār al-Jil, 1973), vol. ii, 200; Muḥammad ‘Ābid, *Qawl*, 18, quoting Ibn Baṭṭāl’s *Sharḥ al-Bukhārī*.

above the navel and one from Abū Mijlaz that it should be below the navel.¹¹

Al-Tirmidhī (d. c. 279/892)

Al-Tirmidhī, in his *al-Jāmi‘ al-ṣaḥīḥ* (also known as *al-Sunan*) records a *ḥadīth* from Hulb al-Ṭā‘ī to the effect that the Prophet used to lead them in prayer and hold his left hand with his right. He also mentions that there are *ḥadīths* on the subject from Wā‘il b. Ḥujr, Ghutaḡf b. al-Ḥārith,¹² Ibn ‘Abbās, Ibn Mas‘ūd and Sahl b. Sa‘d.¹³

Al-Nasā‘ī (d. 303/915)

In his *Sunan*, al-Nasā‘ī records three *ḥadīths* on *qabḍ*: two versions of the Wā‘il *ḥadīth* and a *ḥadīth* from Ibn Mas‘ūd similar to the one that Abū Dāwūd records.¹⁴

Ibn Mājah (d. 273/886)

In his *Sunan*, Ibn Mājah records three *ḥadīths* on the subject: the *ḥadīth* from Hulb as in al-Tirmidhī, a version of the Wā‘il *ḥadīth*, and a version of the Ibn Mas‘ūd *ḥadīth* similar to that recorded by Abū Dāwūd and al-Nasā‘ī but using the verb “passed by” rather than “saw.”¹⁵

¹¹ See Abū Dāwūd, *Sunan Abī Dāwūd*, on the margin of al-Zurqānī, *Sharḥ al-Muwatta‘a* (Cairo: al-Maṭba‘a al-Khayriyya, 1310/1893), vol. i, 201, 202, 210-11.

¹² For the confusion surrounding this man’s name, see Ibn ‘Abd al-Barr, *al-Istī‘āb fī ma‘rifat al-aṣḥāb* (Hyderabad: Dā‘irat al-Ma‘ārif, 1336 [1917]), vol. ii, 516; idem, *Tamhīd*, vol. xx, 73. Al-Tirmidhī mentions only “Ghutaḡf b. al-Ḥārith.” Ibn Abi Shayba gives “al-Ḥārith b. Ghutaḡf or Ghutaḡf b. al-Ḥārith” (see Ibn Abi Shayba, *al-Muṣannaf* [Hyderabad: al-Maṭba‘a al-‘Azīziyya, 1386/1966], vol. i, 390; also below, p. 22), as does al-Ṭabarānī (*al-Mu‘jam al-kabīr* [2nd ed., Mawṣil: Maṭba‘at al-Zahrā’ al-Ḥaditha, 1984], vol. iii, 276; also below, p. 20). The *Musnad* of Aḥmad b. Ḥanbal includes *ḥadīths* under the headings “Ghutaḡf b. al-Ḥārith” and “Ghutaḡf b. al-Ḥārith” and then gives the options “al-Ḥārith b. Ghutaḡf” and “al-Ḥārith b. Ghutaḡf” respectively in the actual *isnāds* (see Aḥmad, *al-Musnad* [Cairo: al-Maṭba‘a al-Maymaniyya, 1313 (1895)], vol. iv, 105, vol. v, 290; also below, p. 19), although Ibn ‘Abd al-Barr quotes him as saying that the name is “al-Ḥārith b. Ghutaḡf” (see Ibn ‘Abd al-Barr, *Tamhīd*, vol. xx, 73). Al-Bayhaqī gives only “al-Ḥārith b. Ghutaḡf” (see al-Bayhaqī, *al-Sunan al-kubrā* (Hyderabad: Dā‘irat al-Ma‘ārif, 1344 [1925-26]), vol. ii, 29, n. 1; also below, p. 21).

¹³ See al-Tirmidhī, *al-Jāmi‘ al-ṣaḥīḥ* (or *al-Sunan*), ed. Aḥmad Muḥammad Shākir (Cairo: Maṭba‘at Muṣṭafā al-Bābī al-Ḥalabī, 1356/1937), vol. ii, 32.

¹⁴ See al-Nasā‘ī, *Sunan al-Nasā‘ī* (Cairo: al-Maṭba‘a al-Miṣriyya, 1348/1930), vol. ii, 125-26.

¹⁵ See Ibn Mājah, *Sunan Ibn Mājah*, ed. Muḥammad Fu‘ād ‘Abd al-Bāqī (Cairo: Dār Iḥyā’ al-Kutub al-‘Arabiyya, 1373/1954), vol. i, 266.

This is what we find in the Six Books referred to above. To these can be added the following:

Aḥmad ibn Ḥanbal (d. 241/855)

In his *Musnad*, Aḥmad records *ḥadīths* on *qabḍ* similar to those mentioned above from ‘Alī (“part of the *sunna* is”), Sahl b. Sa’d, Wā’il b. Ḥujr (11 versions) and Hulb (6 versions). He also records three versions of one from Ghudayf/Ghuṭayf b. al-Ḥārith or al-Ḥārith b. Ghudayf/Ghuṭayf¹⁶ (“Whatever I forget, I will never forget that I saw the Messenger of Allah, may Allah bless him and grant him peace, doing the prayer having put his right hand over his left”), and one from Jābir similar to that from Ibn Mas‘ūd mentioned above to the effect that the Prophet once passed by someone who was praying with his left hand over his right and so put his right hand over his left instead.¹⁷

Al-Dārimī (d. 255/923)

In his *Sunan* (or *Musnad*), al-Dārimī records a version of the *ḥadīth* from Wā’il b. Ḥujr.¹⁸

Al-Bazzār (d. 292/905)

In his *Zawā'id*, al-Bazzār records a *ḥadīth* from Shaddād b. Shuraḥbīl similar to that from “al-Ḥārith b. Ghuṭayf” recorded by Aḥmad (“Whatever I forget, I will never forget etc”).¹⁹

Ibn Khuzayma (d. 311/924)

In his *Ṣaḥīḥ*, Ibn Khuzayma records four versions of the Wā’il *ḥadīth*.²⁰

Ibn Ḥibbān (d. 354/965)

Ibn Ḥibbān records two *ḥadīths* on the subject in his *Ṣaḥīḥ*: a version of the Wā’il *ḥadīth* and a “three things” *ḥadīth* from Ibn ‘Abbās.²¹ (A “three things” *ḥadīth* is one which, like the *ḥadīth* that Mālik records

¹⁶ For the uncertainty about this man’s name, see above, n. 12.

¹⁷ See Aḥmad, *Musnad*, vol. i, 110 (‘Alī); vol. iii, 381 (Jābir); vol. iv, 105, 290 (“Ghudayf” etc.), 316-19 (Wā’il); vol. v, 226-27 (Hulb), 336 (Sahl).

¹⁸ See al-Dārimī, *Sunan* (Damascus: Maṭba‘at al-I’tidāl, 1349 [1930]), vol. i, 283.

¹⁹ See al-Haythamī, *Kashf al-astār ‘an Zawā'id al-Bazzār*, ed. Ḥabīb al-Raḥmān al-A‘zamī (Beirut: Mu’assasat al-Risāla, 1399/1979), vol. i, 253.

²⁰ See Ibn Khuzayma, *al-Ṣaḥīḥ*, ed. Muḥammad Muṣṭafā al-A‘zamī, vol. i (Beirut: Dār al-Qalam, 1970), 242-43.

²¹ See Ibn Ḥibbān, *Ṣaḥīḥ*, ed. Shu‘ayb al-Arna’ūt. (Beirut: Mu’assasat al-Risāla, 1404-12/1984-91), vol. v, 109, 67-68.

from ‘Abd al-Karīm b. Abī al-Mukhāriq, lists three things—one of which is *qabḍ*—as being part of the practice of the prophets.)

Al-Ṭabarānī (d. 360/971)

In his *Kabīr* (i.e. *al-Mu‘jam al-kabīr*), al-Ṭabarānī records similar *ḥadīths* to those recorded by Aḥmad from “al-Ḥārith b. Ghutaṭf,” by al-Bazzār from Shaddād b. Shuraḥbīl, and by Ibn Ḥibbān from Ibn ‘Abbās (two versions). He also records versions of the “three things” *ḥadīth* from Ya‘lā b. Murra and Abū al-Dardā’; a *ḥadīth* from ‘Uqba b. Abi ‘Ā’isha to the effect that he saw the Companion ‘Abdallāh b. Jābir al-Bayāḍī doing the prayer with *qabḍ*; and a *ḥadīth* from Mu‘ādh to the effect that the Prophet “would let his hands rest by his sides (*arsalahumā*) after saying the initial *takbīr* and then be silent for a while, and that sometimes (*rubbamā*) he would put one hand over the other.”²² According to al-Haythamī, al-Ṭabarānī also records, in his *Awsaṭ*, the same *ḥadīth* from Jābir that Aḥmad records.²³

Al-Dāraqūṭnī (d. 385/995)

Al-Dāraqūṭnī, in his *Sunan*, records fifteen *ḥadīths* on the subject of *qabḍ*: two versions of the Wā’il *ḥadīth*; the same *ḥadīths* from Ibn Mas‘ūd that Abū Dāwūd and al-Nasā’ī record plus a third descriptive *ḥadīth* from him to the effect that the Prophet would hold his left hand in his right while doing the prayer; a version of the Hulb *ḥadīth* similar to one recorded by Aḥmad; two versions of the “part of the *sunna*” *ḥadīth* recorded by Abū Dāwūd and Aḥmad from ‘Alī, as also a *tafsīr ḥadīth* from him to the effect that the command *wa-nḥar* in the Qur’anic phrase *fa-ṣalli li-rabbika wa-nḥar* (Q. 108:2) refers to putting the right hand over the left in prayer; “three things” *ḥadīths* from ‘Ā’isha, Ibn ‘Abbās and Abū Hurayra, as well as a “part of the *sunna*” *ḥadīth* from the latter; the “passed by” *ḥadīth* from Jābir recorded by Aḥmad and al-Ṭabarānī; and a *ḥadīth* of rather indeterminate meaning from Anas to the effect that when the Prophet stood for the prayer he would say

²² See al-Ṭabarānī, *Mu‘jam*, vol. iii, 276 (“al-Ḥārith b. Ghutaṭf”); vol. vii, 272-73 (Shaddād); vol. xi, 6, 159 (Ibn ‘Abbās); vol. xx, 63 (Mu‘ādh); vol. xxii, 216-17 (Ya‘lā). For the *ḥadīth* from Abū al-Dardā’, see al-Haythamī, *Majma‘ al-zawā’id* (Cairo: Maktabat al-Qudsī, 1352 [1933-34]), vol. ii, 105; al-Suyūṭī, *Tanwīr al-ḥawālik*, on the margin of *Muw.*, vol. i, 133. For the *ḥadīth* from ‘Uqba b. Abi ‘Ā’isha, see al-Haythamī, *Majma‘*, vol. ii, 105; Ibn Hajar, *al-Iṣāba fī tamyīz al-ṣaḥāba* (Cairo: Maṭba‘at al-Sa‘āda and al-Maṭba‘a al-Sharafiyya, 1323-25 [1905-07]), vol. iv, 45.

²³ See al-Haythamī, *Majma‘*, vol. ii, 105.

“Like this and like this” on his right and his left (*qāla hākadhā wa-hākadhā ‘an yamīnihi wa-‘an shimālihi*).²⁴

Al-Bayhaqī (d. 458/1066)

Among later works, special mention should be made of the *Kitāb al-Sunan al-kubrā* of al-Bayhaqī. This extensive compendium, which duplicates much of the material referred to above, contains a total of twenty-five reports from thirteen Companions on the subject of *qabḍ*, namely: five versions of the *ḥadīth* from Wā’il; three versions of the descriptive and/or “part of the *sunna*” *ḥadīths* from ‘Alī and four of the *tafsīr ḥadīth* from him; *tafsīr ḥadīths* of the same ilk from Ibn ‘Abbās and Anas; “three things” *ḥadīths* from Ibn ‘Umar, Ibn ‘Abbās, Abū Hurayra and ‘Ā’isha; a “part of the *sunna*” *ḥadīth* from Abū Hurayra; standard versions of the *ḥadīths* from Sahl b. Sa’d, Ibn Mas‘ūd, Hulb, al-Ḥārith b. Ghudayf (*sic*), Shaddād b. Shuraḥbīl and Ibn al-Zubayr, and also the reports on the subject from Sa‘īd b. Jubayr and Abū Mijlaz referred to by Abū Dāwūd.²⁵ In addition, al-Bayhaqī’s commentator, Ibn al-Turkumānī (d. c. 750/1349), quoting Ibn Ḥazm, mentions a “three things” *ḥadīth* from Anas.²⁶

The above selection—and there are many other possible sources²⁷—represents the “classical” collections of *ḥadīth*. However, mention should also be made here of two important “pre-classical” collections, namely, the *Muṣannaf* works of ‘Abd al-Razzāq al-Ṣan‘ānī (d. 211/827) and Ibn Abī Shayba (d. 235/849).

‘Abd al-Razzāq

As far as I have been able to ascertain, ‘Abd al-Razzāq’s *Muṣannaf* contains no material on *qabḍ*, although there is a short section of Successor material on *sadd*.²⁸ I am not sure of the reason for this hiatus, if hiatus it be.

Ibn Abī Shayba

Ibn Abī Shayba records fifteen reports on the subject of *qabḍ* in his *Muṣannaf*: two versions of the Wā’il *ḥadīth*; three reports from ‘Alī (a

²⁴ See al-Dāraquṭnī, *Sunan* (Beirut: ‘Ālam al-kutub, n.d.), vol. 1, 283-87.

²⁵ See al-Bayhaqī, *Sunan*, vol. ii, 26, 28-32.

²⁶ See Ibn al-Turkumānī, *al-Jawhar al-naqī* (on the margin of al-Bayhaqī’s *Sunan*), vol. ii, 32.

²⁷ Ibn ‘Abd al-Barr’s *Tamhīd* (vol. xx, 71-9), for instance—to mention but one source—duplicates much of the above material.

²⁸ See ‘Abd al-Razzāq, *al-Muṣannaf*, ed. Ḥabīb al-Raḥmān al-A‘ẓamī (Beirut: al-Majlis al-‘Ilmī, 1970-72), vol. ii, 276, nos. 3345-47; also below, pp. 26-27.

tafsir ḥadīth, a description *ḥadīth*, and a “part of the *sunna*” *ḥadīth*); the *ḥadīths* from al-Ḥārith b. Ghūṭayf (or Ghūṭayf b. al-Ḥārith), Hulb and Abū ‘l-Dardā’ mentioned above; a *mursal ḥadīth* from al-Hasan [al-Baṣrī] (“It is as if I am looking at the learned men of the Banī Isrā’īl doing the prayer with their right hands over their left”);²⁹ a *mursal ḥadīth* from Abū ‘Uthmān [al-Nahdī] of the “passed by” type, similar to those from Jābir and Ibn Mas‘ūd mentioned above;³⁰ and reports about the subject from the Successors Ibrāhīm [al-Nakha‘ī], Abū Mijlaz, Abū Ziyād the *mawlā* of the Al Darrāj (“Whatever I forget, I will never forget”, referring to Abū Bakr), Mujāhid and Abū al-Jawzā’.³¹

As in ‘Abd al-Razzāq’s *Muṣannaf*, there is a section on *sadl* (referred to as *irsāl al-yadayn*) with material from various Successors and, in this instance, one Companion.³²

What is immediately noteworthy from the above is the complete absence of any pro-*sadl* material in the “classical” collections but its presence in the form of (mainly) Successor *ḥadīth* in the “pre-classical” collections of ‘Abd al-Razzāq and Ibn Abī Shayba (and of course the

²⁹ This particular *ḥadīth* might lead to the consideration that there is an element of *mukhālafat ahl al-kitāb* in the question of *sadl* v. *qabḍ*, as, for instance, there is with the question of *raf‘ al-yadayn* (see Maria Isabel Fierro, “La polémique à propos de *raf‘ al-yadayn fī l-ṣalāt* dans Al-Andalus,” *Studia Islamica*, vol. v [1987], 69-70). However, apart from this single *ḥadīth*, which indicates a seemingly positive attitude to the *ahl al-kitāb*, I have found nothing in either the traditional literature or in Western scholarship on the subject (e.g. Ignaz Goldziher, “Usages juives d’après la littérature des musulmans,” *Revue des Études Juives*, vol. xxviii [1894], 75-94; Arent Jan Wensinck, *Muhammad and the Jews of Medina*, tr. and ed. Wolfgang Behn [Freiburg im Breisgau: Klaus Schwarz Verlag, 1975], 72-103 [a French translation of this section of the book, by G.H. Bousquet and G.-W. Bousquet-Mirandolle, was published under the title “L’influence juive sur les origines du culte musulman” in *Revue Africaine*, vol. xcvi (1954), 84-112; the original Dutch version of the book was first published as *Mohammed en de Joden te Medina* in Leiden in 1908]; Georges Vajda, “Juifs et musulmans selon le *ḥadīth*,” *Journal Asiatique*, vol. ccxxix [1937], 57-127, esp. 84) to suggest that this is the case in this issue.

³⁰ The presence of Abū ‘Uthmān in the *isnād* of this particular version links it to the Ibn Mas‘ūd *ḥadīth* related by Abū Dāwūd, Ibn Mājah, Aḥmad and al-Dāraquṭnī, but the third-person referent of Ibn Abī Shayba’s version (“[He] passed by a *man*”) rather than the first-person referent of the Ibn Mas‘ūd *ḥadīth* (“[He] saw/passed by *me*”) links it rather to the Jābir *ḥadīth* related by Aḥmad, al-Ṭabarānī and al-Dāraquṭnī (“[He] passed by a *man*”). A comparison between *isnād* and content as regards this and the other *ḥadīths* on the subject would make an interesting future study.

³¹ See Ibn Abī Shayba, *Muṣannaf*, vol. i, 390-91; cf. Ibn ‘Abd al-Barr, *Tamhīd*, vol. xx, 73, 74, 77, 79.

³² See Ibn Abī Shayba, *Muṣannaf*, vol. i, 391-92; also below, p. 27. For the identification of “Ibn al-Zubayr” as the Companion ‘Abdallāh b. al-Zubayr, see above, n. 10.

fiqh text from Mālik in the *Mudawwana*, ‘*Utbiyya*, etc). We shall return to the significance of this point later.

If we organise this material according to the Companions from whom it is transmitted (I am assuming for the purposes of the present discussion that the *isnāds* are an essentially accurate representation of the transmission process), we arrive at the following systematization (arranged roughly in order of their appearance above):

(i) the *ḥadīth* from Sahl b. Sa‘d (“People used to be told etc”) recorded by Mālik, al-Bukhārī, Aḥmad and al-Bayhaqī, and referred to by al-Tirmidhī.

(ii) the *ḥadīth* of Wā’il b. Ḥujr (“I saw the Messenger of Allah etc”) recorded in various versions by Ibn Abī Shayba, Muslim, Abū Dāwūd, al-Nasā’ī, Ibn Mājah, Aḥmad, al-Dārimī, Ibn Khuzayma, Ibn Ḥibbān and al-Bayhaqī, and referred to by al-Tirmidhī.

(iii) Ibn al-Zubayr’s “part of the *sunna*” *ḥadīth* recorded by Abū Dāwūd and al-Bayhaqī.

(iv) two *ḥadīths* from Ibn Mas‘ūd, i.e. the “passed by” type *ḥadīth* (“The Prophet saw me/passed by me etc”) recorded by Abū Dāwūd, al-Nasā’ī, Ibn Mājah, al-Dāraquṭnī and al-Bayhaqī, and the descriptive *ḥadīth* recorded by al-Dāraquṭnī.

(v) three *ḥadīths* from ‘Alī, i.e. the “part of the *sunna*” *ḥadīth* recorded by Ibn Abī Shayba, Abū Dāwūd, Aḥmad and al-Dāraquṭnī, the descriptive *ḥadīth* about him (“I saw ‘Alī/‘Alī used to etc”) recorded by Ibn Abī Shayba, Abū Dāwūd and al-Bayhaqī, and the *tafsīr ḥadīth* recorded by Ibn Abī Shayba, al-Dāraquṭnī and, in various versions, al-Bayhaqī.

(vi) three *ḥadīths* from Abū Hurayra, i.e. the “*sunna*” *ḥadīth* recorded by Abū Dāwūd, al-Dāraquṭnī and al-Bayhaqī, the “three things” *ḥadīth* recorded by al-Dāraquṭnī and al-Bayhaqī, and, in addition to these two, a descriptive *ḥadīth* recorded from him by Ibn ‘Abd al-Barr to the effect that the Prophet would put his right hand over his left after saying the initial *takbīr* in the funeral prayer (*janāza*).³³

(vii) the *ḥadīth* from Hulb (“I saw the Messenger of Allah/The Messenger of Allah used to etc”) recorded by Ibn Abī Shayba, al-Tirmidhī, Ibn Mājah, Aḥmad, al-Dāraquṭnī and al-Bayhaqī.

(viii) the *ḥadīth* of al-Ḥārith b. Ghutayf (or Ghutayf b. al-Ḥārith, etc) (“Whatever I forget, I will never forget etc”) recorded by Ibn

³³ See Ibn ‘Abd al-Barr, *Tamhīd*, vol. xx, 79.

Abī Shayba, Aḥmad, al-Ṭabarānī, al-Dāraquṭnī and al-Bayhaqī, and referred to by al-Tirmidhī.

(ix) the *ḥadīth* of Jābir (“The Messenger of Allah passed by a man etc”) recorded by Aḥmad, al-Ṭabarānī and al-Dāraquṭnī.

(x) the *ḥadīth* of Shaddād b. Shuraḥbīl (“Whatever I forget, I will never forget etc”) recorded by al-Bazzār, al-Ṭabarānī and al-Bayhaqī.

(xi) two *ḥadīths* recorded from Ibn ‘Abbās, i.e. the “three things” *ḥadīth* recorded by Ibn Ḥibbān, al-Ṭabarānī, al-Dāraquṭnī and al-Bayhaqī, and the *tafsīr ḥadīth* recorded by al-Bayhaqī.

(xii) the “three things” *ḥadīth* recorded from Ya‘lā b. Murra by al-Ṭabarānī.

(xiii) the “three things” *ḥadīth* recorded from Abū al-Dardā’ by Ibn Abī Shayba and al-Ṭabarānī.

(xiv) the *ḥadīth* of Mu‘adh recorded by al-Ṭabarānī.

(xv) the “three things” *ḥadīth* recorded from ‘Ā’isha by al-Dāraquṭnī and al-Bayhaqī.

(xvi) three *ḥadīths* from Anas, i.e. the *tafsīr ḥadīth* recorded by al-Bayhaqī, the “three things” *ḥadīth* recorded by al-Bayhaqī’s commentator, al-Turkumānī, and the indeterminate *ḥadīth* recorded from him by al-Dāraquṭnī.

(xvii) the “three things” *ḥadīth* recorded from Ibn ‘Umar by al-Bayhaqī.

(xviii) the *mursal ḥadīth* (descriptive) from Ṭāwūs recorded by Abū Dāwūd.

(xix) the *mursal ḥadīth* from al-Ḥasan (“It is as if I am looking at the learned men of the Banī Isrā’īl etc”) recorded by Ibn Abī Shayba.

(xx) the *mursal ḥadīth* of the “passed by” type from Abū ‘Uthmān al-Nahdī recorded by Ibn Abī Shayba. (This should probably come under either the “passed by” *ḥadīth* of Jābir or Ibn Mas‘ūd; see above, n. 30).

(xxi) the *ḥadīth* of ‘Uqba b. Abī ‘Ā’isha about ‘Abdallāh b. Jābir al-Bayḍī praying with *qabḍ* recorded by al-Ṭabarānī.

(xxii) the descriptive report from Abū Ziyād about Abū Bakr (“Whatever I forget, I will never forget etc”) recorded by Ibn Abī Shayba.

[NOTE: This material can also be organised according to theme. If we do so, the following six categories emerge:

(i) the description category (“I saw etc”), under which come the numerous transmissions from Wā’il b. Ḥujr, the *ḥadīth* of Hulb, one about ‘Alī, one from Ibn Mas‘ūd, the *ḥadīth* from Mu‘ādh, the “indeterminate” *ḥadīth* from Anas, the *ḥadīth* from Ṭāwūs and, as a sub-category, those *ḥadīths* which begin with the formula, “Whatever I forget, I will never forget etc,” which include the *ḥadīths* from “al-Ḥārith b. Ghutaṭf” and Shaddād b. Shuraḥbīl and the Companion *ḥadīths* about ‘Abdallāh b. Jābir al-Bayāḍī (from ‘Uqba b. Abī ‘Ā’isha) and Abū Bakr (from Abū Ziyād). Under this category also comes the funeral-prayer *ḥadīth* of Abū Hurayra and, perhaps, the *mursal ḥadīth* from al-Ḥasan (“It is as if I am looking at the learned men of the Banī Isrā’īl etc”).

(ii) the “passed by” category, under which come the *ḥadīths* of Jābir, one of two from Ibn Mas‘ūd, and the *mursal ḥadīth* from Abū ‘Uthmān al-Nahdī.

(iii) the “part of the *sunna*” category, under which come the *ḥadīths* of this type recorded from ‘Alī, Abū Hurayra and Ibn al-Zubayr.

(iv) the “three things” category, under which come the *ḥadīths* of ‘Ā’isha, Ibn ‘Umar, Abū al-Dardā’, Ya‘lā b. Murra, one of three *ḥadīths* recorded from Abū Hurayra, one of three *ḥadīths* recorded from Anas, one of two *ḥadīths* recorded from Ibn ‘Abbās, and the *ḥadīth* recorded by Mālik from ‘Abd al-Karīm b. Abī al-Mukhāriq.

(v) the *tafsīr* category, under which come the *ḥadīths* of this type recorded from ‘Alī, Ibn ‘Abbās and Anas.

(vi) the “people used to be told” category of the Sahl b. Sa’d *ḥadīth* which has no obvious parallel in any of the other *ḥadīths* on the subject.]

There are thus at least thirty distinct, albeit closely-related, *ḥadīths* (in the sense of reports from either the Companions or the Prophet) from or via nineteen Companions and three Successors that seem to indicate that it is desirable, if not obligatory, to do the prayer with *qabḍ*.³⁴

³⁴ This at least is the assumption of those such as al-Shawkānī (d. 1250/1832) and Muḥammad al-Makkī b. ‘Azzūz al-Tūnisī (d. 1334/1916) who use this number to bolster their arguments for *qabḍ*. Al-Shawkānī (*Nayl*, vol. ii, 201, 202) refers to “twenty *ḥadīths* from eighteen Companions” (he fails to include either Anas or Abū Bakr but includes Ḥudhayfa) “.... and two Successors” and uses the words *mashrū‘iyya* (part of the *sharī‘a*) and *wujūb* (obligatory) to describe *qabḍ*. Muḥammad al-Makkī, in his *Risāla*, refers to “twenty *ḥadīths* from about eighteen Companions” and uses the word *maṭlūbiyya* (desirable, required) to describe *qabḍ*.

Nevertheless, the early Sunnī *fuqahā'* were by no means agreed on the desirability of *qabḍ* when doing the prayer.

The views of the fuqahā'

Speaking first of the four surviving Sunnī *madhhabs*, we have already noted that the Ḥanafis, Shāfi'is and Ḥanbalis, as well as some of the Mālikis, take the view that the prayer should be done with *qabḍ*. According to Ibn 'Abd al-Barr, this was also the view of several other major Sunnī authorities, among whom he mentions Sufyān al-Thawrī (d. 161/778), al-Ḥasan b. Šālih (d. 167/783-4), Ishāq [b. Rāhawayh] (d. 238/853), Abū Thawr (d. 240/854), Abū 'Ubayd (d. 224/838), Dāwūd b. 'Alī (d. 270/884) and al-Ṭabarī (d. 310/923). All these people, he says, take this view because it is "a *sunna* that has been laid down (*sunna masnūna*)," by which he and they clearly mean that it is something about which there are formal reports from the Prophet which thus indicate his *sunna* and which thus cannot be gainsaid.³⁵

However, we have also noted that Mālik (according to Ibn al-Qāsim's report from him in the *Mudawwana* and the *Uthbiyya*) and, following him, most of the Mālikis, take the view that *qabḍ* is disliked in obligatory prayers (rather, *sadl* is what is required), although *qabḍ* is acceptable in voluntary prayers if someone has been standing in the prayer for a long time and wants to make things easier for himself. Ibn 'Abd al-Barr tells us that this was not only the view of Mālik but also that of his Egyptian contemporary al-Layth b. Sa'd (d. 175/791).³⁶ (This is significant because we know that al-Layth, despite his great respect for Mālik and Madinan *fiqh*, was not averse to delivering judgments against the Madinan position if he felt the reasoning behind them to be weak, as his letter to Mālik rejecting several Madinan judgments clearly shows.)³⁷ Ibn 'Abd al-Barr also tells us, quoting 'Abd al-Razzāq, that this was the way Ibn Jurayj (d. 150/767) used to

(see Muḥammad 'Ābid, *Qawl*, 1).

³⁵ See Ibn 'Abd al-Barr, *Tamhīd*, vol. xx, 75; cf. the arguments of al-Shawkānī and Muḥammad al-Makkī in the immediately preceding note. In his *Kāfi*, however, Ibn 'Abd al-Barr refers to both *qabḍ* and *sadl* as *sunna* (see Ibn 'Abd al-Barr, *al-Kāfi fī fiqh ahl al-Madina al-Mālikī* [Riyadh: Maktabat al-Riyāḍ al-Ḥadītha, 1400/1980], vol. i, 206).

³⁶ See Ibn 'Abd al-Barr, *Tamhīd*, vol. xx, 74-75; also al-Shawkānī, *Nayl*, vol. ii, 201 (quoting al-Nawawī); Muḥammad 'Ābid, *Qawl*, 19 (quoting al-'Aynī's commentary on al-Bukhārī and al-Zayn al-'Irāqī's commentary on al-Tirmidhī).

³⁷ For al-Layth's letter to Mālik, see al-Fasawī, *Kitāb al-Ma'rifa wa'l-tārīkh*, ed. Akram Ḍiyā' al-'Umari (Beirut: Mu'assasat al-Risāla, 1401/1981), vol. i, 687-95; Ibn Qayyim al-Jawziyya, *I'lām al-muwaqqi'in* (Cairo: Idārat al-Ṭibā'a al-Muniriyya, n.d.), vol. iii, 72-77.

pray, and that both *sadl* and *qabḍ* were considered equally acceptable by al-Awzā‘ī (d. 154/774) and ‘Aṭā’ [b. Abī Rabāḥ] (d. 114/732).³⁸ In ‘Abd al-Razzāq’s *Muṣannaf* we also find a report that Ibrāhīm [al-Nakha‘ī] (d. 96/715) used to pray with *sadl*,³⁹ which is also recorded by Ibn Abī Shayba who, in his section on *sadl*, adds reports to the same effect from al-Ḥasan [al-Baṣrī] (d. 110/728), [‘Abdallāh] b. al-Zubayr (d. 73/692),⁴⁰ Ibn Sīrīn (d. 110/728), Sa‘īd b. al-Musayyab (d. c. 94/713) and Sa‘īd b. Jubayr (d. 95/714).⁴¹ Ibn Abī Shayba also includes a report from Ibrāhīm to the effect that there is no harm (*lā ba’s*) in *qabḍ*,⁴² thus echoing the view of al-Awzā‘ī and ‘Aṭā’ mentioned above. He also includes a report from Mujāhid (d. 104/722) which, although included by him in the section on *qabḍ*, is construed by Ibn ‘Abd al-Barr to be an anti-*qabḍ* report.⁴³

We thus have two groups among the Sunnis: those who say, following the outward interpretation of the various *ḥadīths* on the subject, that *qabḍ* is the preferable way, and those who, for some other reason, say it should be *sadl*. (For the moment the unanimous Shi‘a/Khawārij position on *sadl* need not concern us.)

The question we then have to ask is: Why is it that this second group should prefer *sadl*? More particularly: Why is it that Mālik, who himself includes two *ḥadīths* in his *Muwaṭṭa’* ostensibly indicating *qabḍ*, should nevertheless—according to the dominant opinion related from him—prefer *sadl*?

The answer to this question lies in the definition of the word “*sunna*” and the extent to which *sunna* is or is not reflected by *ḥadīth*.

³⁸ See Ibn ‘Abd al-Barr, *Tamhīd*, vol. xx, 75. See also ‘Abd al-Razzāq, *Muṣannaf*, vol. ii, 276, no. 3346 (‘Aṭā’ and Ibn Jurayj); al-Sarakhsi, *Mabsūṭ*, vol. 1, 23-24 (al-Awzā‘ī); al-Shawkānī, *Nayl*, vol. ii, 201, quoting Ibn Sayyid al-Nās (al-Awzā‘ī); Muḥammad ‘Ābid, *Qawl*, 19, quoting the commentaries of Ibn Baṭṭāl and al-‘Aynī on al-Bukhārī and al-Zayn al-‘Irāqī’s commentary on al-Tirmidhī (‘Aṭā’ and al-Awzā‘ī).

³⁹ See ‘Abd al-Razzāq, *Muṣannaf*, vol. ii, 276, no. 3347.

⁴⁰ For this identification, see above, n. 10.

⁴¹ See Ibn Abī Shayba, *Muṣannaf*, vol. i, 391-92; also Ibn ‘Abd al-Barr, *Tamhīd*, vol. xx, 74, 76; al-Shawkānī, *Nayl*, vol. ii, 201; Muḥammad ‘Ābid, *Qawl*, 18-19, quoting the commentaries of Ibn Baṭṭāl and al-‘Aynī on al-Bukhārī and al-Zayn al-‘Irāqī’s commentary on al-Tirmidhī.

⁴² See Ibn Abī Shayba, *Muṣannaf*, vol. i, 391; Ibn ‘Abd al-Barr, *Tamhīd*, vol. xx, 76.

⁴³ See Ibn Abī Shayba, *Muṣannaf*, vol. i, 391; Ibn ‘Abd al-Barr, *Tamhīd*, vol. xx, 79.

Sunna or ḥadīth?

For the average Muslim today, *sunna* is effectively what is recorded in the books of *ḥadīth* that are assumed to contain all the reported sayings, acts and tacit approvals of the Prophet, otherwise known as his *sunna*. More specifically, it is what is recorded in the two *Ṣaḥīḥ* collections of al-Bukhārī and Muslim, although extended to include also the other four of the Six Books and others like them, according to the awareness of the individual concerned.

Two things, however, should be noted about these compilations. Firstly, almost all of them date from the middle of the third century (Hijrī) or later. That is, the men who compiled them were working in or around the middle of the third century or later. The important exceptions to this rule are the collections of Mālik (d. 179/795), ‘Abd al-Razzāq (d. 211/827) and Ibn Abī Shayba (d. 235/849), who all lived and worked in the second part of the second or early part of the third century.

Secondly, if we compare these two types of *ḥadīth*-material—the earlier and the later—we find one major difference: the earlier works contain considerable material from the Successors as well as from the Prophet and the Companions, whereas the later works consist almost entirely of “Prophet-only” material (with some allowance for the first four caliphs). In other words, what one could describe as a massive editing process has taken place, which we can date to somewhere in the first half of the third century. Before that date the choice of material is very wide; after that date it is almost exclusively Prophetic.

The date of the Muwaṭṭa’

At this point a short digression is necessary before continuing with our main theme. Calder has recently expressed doubt as to second century nature of what is normally considered to be Mālik’s *Muwaṭṭa’*, suggesting that it is a Cordoban production of the latter part of the third century.⁴⁴ My own view is that the *Muwaṭṭa’* is not only a product of Mālik in Madina before his death in 179 AH, but was also substantially in place before the year 150 AH, thus making it our earliest extant text of this nature. The evidence for this is fourfold:

Firstly, there exists a papyrus fragment of the text which Abbott dates by textual evidence—particularly the characteristics of the script, the absence of glosses, the unsystematic order of the *ḥadīths* and, most

⁴⁴ See Norman Calder, *Studies in Early Muslim Jurisprudence* (Oxford: Clarendon Press, 1993), 38, 146.

significantly in her opinion, the consistent use of ‘*an* in the *isnāds* together with the absence of any initial transmission formula such as *qāla*, *akhbaranī*, *ḥaddathanī*, etc—to Mālik’s own day in the second half of the second century AH.⁴⁵

Secondly, we possess an early parchment fragment, dated 288 AH, of ‘Ali b. Ziyād’s (d. 183/799) transmission of the *Muwaṭṭa’*, transmitted by a certain Ḥasan b. Aḥmad⁴⁶ from Jabala b. Ḥammād (d. 299/911) from Saḥnūn (d. 240/854) from ‘Alī b. Ziyād, who was Saḥnūn’s main teacher.⁴⁷ Ibn Ziyād, who is credited with being the first to introduce the *Muwaṭṭa’* into Ifriqiya,⁴⁸ returned to Tunis in 150 AH, which year his transmission must therefore predate.⁴⁹ At the very least we are told that he was teaching it to Saḥnūn before the latter’s departure for Egypt at the beginning of the year 178 AH.⁵⁰ We should also bear in mind that this is the same Saḥnūn who was responsible for transmitting the *Mudawwana* from Ibn al-Qāsim, himself another transmitter of the *Muwaṭṭa’* from Mālik (see below), which poses problems for Calder’s claim that the *Mudawwana* is the earlier of the two books if in fact they are both related by or from the same person—Ibn al-Qāsim—who died in 191/806.

Thirdly, a comparison of Ibn Ziyād’s and the other transmissions currently available either wholly or partly in printed form, i.e. those of Yahyā b. Yahyā al-Laythī (d. 234/848), al-Shaybānī (d. 189/805) and

⁴⁵ See Nabia Abbott, *Studies in Arabic Literary Papyri* (Chicago: University of Chicago Press, 1957-72), vol. ii, 114, 121-28, esp. 127, where she says: “Thus the paleography, the scribal practices, the text, the order of the traditions and the *isnād* terminology of the papyrus show a remarkable degree of conformity with the scholarly practices of Mālik and his contemporaries. On the strength of this internal evidence the papyrus folio can be safely assigned to Mālik’s own day.”

⁴⁶ For a possible identification of this man, see *Muwaṭṭa’ al-Imām Mālik, qiṭ‘a minhu bi-riwāyat Ibn Ziyād*, ed. Muḥammad al-Shādhilī al-Nayfar (Beirut: Dār al-Gharb al-Islāmī, 1400/1980) [hereinafter *Muw. Ibn Ziyād*], Introduction, 99-101.

⁴⁷ For this fragment, see *Muw. Ibn Ziyād*; also Joseph Schacht, “On Some Manuscripts in Kairouan and Tunis,” *Arabica*, vol. xiv (1967), 227-28. For Ibn Ziyād being Saḥnūn’s main teacher, see *Muw. Ibn Ziyād*, Introduction, 44-45.

⁴⁸ See al-Qāḍī ‘Iyāḍ, *Tartīb al-madārik*, ed. Aḥmad Bakīr Maḥmūd (Beirut and Tripoli: Dār Maktabat al-Ḥayāt and Dār Maktabat al-Fikr, 1387/1967), vol. i, 326.

⁴⁹ See Muḥammad Al-Aroosi Abdul-Qadir, “The Reception and Development of Malikite Legal Doctrine in the Western World” (unpublished Ph.D. thesis, Edinburgh University, 1973), 14, also 11, citing Ibn ‘Ashūr’s *A’lām al-fikr al-Islāmī*, 25. This accords with Ibn Qutayba’s (d. 276/889) suggestion that the *Muwaṭṭa’* was completed in or around 148 AH (see Muḥammad Yūsuf Gurāyā, “Historical Background of the Compilation of the *Muwaṭṭa’* of Mālik b. Anas,” *Islamic Studies*, vol. 7 [1968], p. 387, citing Ibn Qutayba’s *al-Imāma wa’l-siyāsa* [Egypt, 1348 (1929), p. 155]. Gurāyā himself [p. 388] opts for 147 or 152 AH).

⁵⁰ See *Muw. Ibn Ziyād*, Introduction, 44, 104.

al-Qa'nabī (d. 221/836),⁵¹ shows that all four are remarkably similar in their basic content and thus clearly represent one text. It is true that al-Shaybānī's transmission shows certain marked differences from the other three, but these are in the nature of editorial changes necessitated by al-Shaybānī's purpose in using Mālik's *ḥadīth* in his teaching of Kufan *fiqh*. Thus, firstly, the order, chapter divisions and titles used for al-Shaybānī's material are very different from those of the other versions that we know. Secondly, and more importantly, he consistently excludes Mālik's own comments and references to Madinan *'amal*, as well as excluding other reports, especially from the Successors, but also, on occasions, *ḥadīths* from the Prophet. Instead, he includes his own references to the views of Abū Ḥanīfa and the *fuqahā'* of Kufa, often adding his own *ḥadīths*. Thus, for instance, the sections on "Tayammum" and "Reciting When Praying Behind an *Imām*" (to take random examples) in the transmissions of Yaḥyā and al-Qa'nabī are almost identical,⁵² whereas al-Shaybānī, although retaining the Prophetic and Companion *ḥadīths*, excludes all the comments by Mālik, adds his own comments, and, in the case of the second section mentioned above, adds thirteen more *ḥadīths* from various authorities, including the Prophet.⁵³ In his chapter on *li'ān*,⁵⁴ al-Shaybānī relates only one short Prophetic *ḥadīth* from Mālik, to which he adds a comment that this is in accord with the Kufan position, whereas Yaḥyā's transmission contains, in addition to the same short *ḥadīth*, another much longer one—about the *sabab al-nuzūl* ("occasion of revelation") of the *li'ān* verses—which does not accord with the Kufan position, as well as a quotation by Mālik of the verses in question, and numerous reports from him concerning details arising from the same.⁵⁵ Al-Shaybānī's editing is even more evident when we consider Ibn Ziyād's transmission, which, although perhaps some thirty years earlier than Yaḥyā's, is nevertheless remarkably similar to it, although not quite as much as al-Qa'nabī's. The chapters in Ibn Ziyād's transmission on

⁵¹ For the transmission of Yaḥyā, see above, n. 3; for that of al-Shaybānī, see above, n. 6. For the published fragment of al-Qa'nabī's transmission, see *Muwatta' al-Imām Mālik, riwāyat al-Qa'nabī*, ed. 'Abd al-Ḥafīẓ Maṣṣūr (Kuwait: al-Shurūq, c. 1392/1972) [hereinafter *Muw. Q.*].

⁵² See *Muw.* vol. i, 57-9, 80-82; *Muw. Q.*, 68-74, 136-40.

⁵³ See *Muw. Sh.*, 48-49, 59-63.

⁵⁴ *Li'ān*, or "mutual invocation of curses," is the procedure whereby a man who accuses his wife of adultery without sufficient witnesses may avoid the penalty for *qadhf* (accusations of illicit sexual intercourse), and she the penalty for adultery, by their both swearing that they are telling the truth on pain of bringing the curse of Allah on themselves if they are lying (see Qur'an 24:6-9).

⁵⁵ *Muw. Sh.*, 199; *Muw.* vol. ii, 23-25.

“Game of the Sea” (*ṣayd al-baḥr*) and “The ‘*Aqīqa* Sacrifice,” for instance (again, to take random examples), are very similar to those in Yaḥyā’s transmission, although Ibn Ziyād includes some extra comments from Mālik. Al-Shaybānī, on the other hand, excludes most of the later, post-Companion material and again adds his own comments.⁵⁶ The difference is obviously that whereas Yaḥyā, al-Qa’nabī and Ibn Ziyād agreed with Mālik’s *madhhab* and method, al-Shaybānī did not, but chose rather to include in his version only that material which he considered useful for his own teaching purposes, i.e. that which accorded with what was taught in Iraq. What concerns us here is that, despite whatever editing has taken place, it is still Mālik’s *Muwattaʿa*, rather than some other text, that has been edited. Indeed, this overall similarity between the different transmissions speaks highly for the authenticity of the text and its attribution to Mālik.

We might also mention here the evidence of the *Umm* of al-Shāfiʿī (d. 204/820), another transmitter of the *Muwattaʿa* from Mālik.⁵⁷ In his sustained argument against Mālik and the Madinans, he quotes extensively from “Mālik’s book,”⁵⁸ and his quotations reflect a text almost identical with that of Yaḥyā b. Yaḥyā’s transmission, both in the wording and the order of the reports quoted.⁵⁹

We should also take into consideration that fragments of four, possibly five, other transmissions of the *Muwattaʿa* also survive, namely, those of Ibn Bukayr (d. 226/840 or 231/845),⁶⁰ Ibn al-Qāsim (d. 191/806),⁶¹ Abū Saʿīd al-Ḥadathānī (d. 240/854),⁶² Abū Muṣʿab al-

⁵⁶ *Muw.* vol. i, 325-6, 328-9; *Muw. Ibn Ziyād*, 189-97; *Muw. Sh.*, 221, 225-26.

⁵⁷ For references, see n. 66 below.

⁵⁸ For this expression see, for example, al-Shāfiʿī, *Umm*, vol. vii, 214, l. 21.

⁵⁹ See the section entitled “*Kitāb Ikhtilāf Mālik wa-l-Shāfiʿī*” in al-Shāfiʿī, *Umm*, vol. vii, 177-249.

⁶⁰ Ibn Bukayr’s transmission was published under the title of *Muwattaʿa al-imām al-mahdī* by the Gouvernement Générale de l’Algérie (Algiers, 1323/1905). For a discussion of this transmission in general and the attribution of the printed text to Ibn Bukayr, see Joseph Schacht, “Deux éditions inconnues du *Muwattaʿa*,” in *Studi Orientalistici in Onore di Giorgio Levi Della Vida* (Rome: Istituto per l’Oriente, 1956), vol. ii, 483-92; idem, “On Some Manuscripts in the Libraries of Morocco,” *Hespéris Tamuda*, vol. ix (1968), 31-33.

⁶¹ Fragments of Ibn al-Qāsim’s transmission exist in manuscript form in Tunis and Qayrawān (see *Muw. Ibn Ziyād*, Introduction, 69; Schacht, “Manuscripts in Kairouan,” 228-30), while all the *musnad ḥadīths* from this transmission as collected by al-Qābisī in his *Mulakhkhaṣ* (or *Mulakhkhiṣ*) have been published under the title *Muwattaʿa al-Imām Mālik ibn Anas, riwāyat Ibn al-Qāsim wa-talkhiṣ al-Qābisī*, ed. Muḥammad b. ʿAlawī b. ʿAbbās al-Mālikī (2nd ed., Jeddah: Dār al-Shurūq, 1408/1988).

⁶² There is an incomplete, but substantial portion of the transmission of Abū Saʿīd al-Ḥadathānī in the Zāhiriyya Library in Damascus (see Schacht, “Deux éditions,” 478ff).

Zuhri (d. 242/856)⁶³ and, possibly, Ibn Wahb (d. 197/812).⁶⁴ Since in the latter part of his life Ibn Ziyād was in Tunis, Yaḥyā in Cordoba, al-Shaybānī in various parts of Iraq, Syria and Khurāsān, al-Qa'nabī in Basra (or perhaps Makka),⁶⁵ Ibn Bukayr, Ibn al-Qāsim, Ibn Wahb and al-Shāfi'i—if we include these last two—in Egypt, Abū Sa'īd in Iraq (al-Ḥadītha), and Abū Muṣ'ab in Madina, the only common link from which their transmissions could reasonably have derived is precisely that which is claimed in the sources to be the case, i.e. Mālik in Madina.

Fourthly, we have the secondary evidence of the biographical literature which tells us of numerous individuals transmitting the *Muwaṭṭa'* directly from Mālik,⁶⁶ and also of several commentaries being written on it before Calder's proposed date of c. 270 for the book's emergence,

⁶³ Various portions of the transmission of Abū Muṣ'ab al-Zuhri exist in manuscript form in Tunis (see *Muw. Q.*, 15), Qayrawān (see Schacht, "Manuscripts in Kairouan," 242-44; idem, "On Abū Muṣ'ab and his *Mukhtaṣar*," *Andalus*, vol. xxx [1965], 7), Damascus (see Fuat Sezgin, *Geschichte des arabischen Schrifttums*, vol. 1 [Leiden: E.J. Brill, 1967], 460) and Dublin (Chester Beatty MS 5498/3, entitled *al-Muntaqā min al-Muwaṭṭa'* [Sezgin, *GAS*, vol. i, 464], which consists of *ḥadīths* from the *Muwaṭṭa'* according to the transmission of Abū Muṣ'ab).

⁶⁴ The recently published fragment of Ibn Wahb's "*Muwaṭṭa'*" (see 'Abdallāh b. Wahb, *al-Muwaṭṭa'*: *Kitāb al-muḥāraba*, ed. Miklos Muranyi [Wiesbaden: Otto Harrassowitz, 1992]; also, for the original manuscript, Schacht, "On Some Manuscripts in Kairouan," 230-31) represents a text which is far more than just another transmission of the *Muwaṭṭa'*. As well as containing distinctively "*Muwattan*" material—such as reports containing expressions relating to Madinan '*amal*' (e.g. Arabic text, 47-48, fol. 18r. 15-21 [= *Muw.* vol. ii, 188])—it also contains extensive material now recorded specifically in either the *Mudawwana* (e.g. Arabic text, 49-50, fol. 6r. 24 - fol. 7r. 10 [= *Mud.* vol. iii, 4], fol. 7r. 15 - 7v. 4 [= *Mud.* vol. iii, 4-5], *et passim*) or the '*Utbiyya*' (e.g. Arabic text, 15, fol. 6r. 22 - 6v. 9 [= *Bayān*, vol. xvi, 373]). Indeed, much of the material is closer textually to the *Mudawwana* than to the *Muwaṭṭa'* (e.g. Arabic text, 25, fol. 10r. 7-10 [= *Mud.* vol. iii, 50; cf. *Muw.* vol. ii, 208], and 51, fol. 19v. 7-11 [= *Mud.* vol. xvi, 166; cf. *Muw.* vol. ii, 188]). However, whatever we care to call Ibn Wahb's book, it clearly confirms a second- rather than third-century origin for the basic material in the *Muwaṭṭa'*, *Mudawwana* and '*Utbiyya*'. (Nor does it exclude the possibility that he also transmitted the *Muwaṭṭa'* in a form more recognisably similar to that of the other transmissions that we know.)

⁶⁵ Al-Qa'nabī settled in Basra and died either there or, according to some reports, in or on the way to Makka (see 'Iyād, *Madārik*, vol. i, 397-99; Ibn Ḥajar, *Tahdhīb al-tahdhīb* [Hyderabad: Dā'irat al-Ma'ārif, 1325-27 (1907-09)], vol. vi, 31-33).

⁶⁶ Muranyi, for instance, lists seventy-nine transmitters of the *Muwaṭṭa'* from Mālik (see Miklos Muranyi, *Materialien zur Mālikitischen Rechtsliteratur* [Wiesbaden: Otto Harrassowitz, 1984], 127-30). A collation of these names with those given by al-Zurqānī (*Sharḥ*, vol. i, 6), 'Iyād (*Mad.* vol i, 203), al-Suyūṭī (*Tanwīr*, vol. i, 8-9), 'Abd al-Bāqī (Mālik, *al-Muwaṭṭa'*, ed. Muḥammad Fu'ād 'Abd al-Bāqī [Cairo: Dār Iḥyā' al-Kutub al-'Arabiyya, 1370/1951], 7) and al-Nayfar (*Muw. Ibn Ziyād*, 80-82) results in a total of at least ninety-three named persons known to have transmitted the *Muwaṭṭa'* from Mālik.

e.g. those of al-Akhfash (d. before 250/864)⁶⁷ and Ibn Muzayn (d. c. 259/873)—this latter itself compiled from the commentaries of ‘Īsā b. Dīnār (d. 212/827), Yaḥyā b. Yaḥyā al-Laythī (d. 234/849), Muḥammad b. ‘Īsā (d. 221/836 or 222/837) and Aṣbagħ b. al-Faraj (d. 225/840)⁶⁸—not to mention those of Ibn Nāfi‘ (d. 186/802), Ibn Wahb (d. 197/812)—of which an early parchment fragment, dated 293 AH and transmitted by an unknown scribe from Yaḥyā b. ‘Awn (d. 298/910-11) from ‘Awn b. Yūsuf (d. 239/853) from Ibn Wahb, survives⁶⁹—and others.⁷⁰ These transmissions and commentaries would not of course have been possible had the text not existed.⁷¹

Given then that the earliest of three early works mentioned above is that of Mālik, we shall concentrate on Mālik’s view on this question of *sadl* versus *qabḍ* as reflected in the seemingly contradictory reports transmitted from him in the *Muwaṭṭa’* and the *Mudawwana*. We shall then consider the implications of this for a clearer understanding of the development in Islamic legal theory that led to the appearance of the Prophet-only *ḥadīth* collections such as those of al-Bukhārī and Muslim and the effective “de-throning” of books such as the *Muwaṭṭa’*—which al-Shāfi‘ī had once considered to be the most accurate book on the face of the earth after the Qur’ān⁷²—in their favor.

Mālik and the Muwaṭṭa’

Firstly, it should be noted that the *Muwaṭṭa’* is not simply a book of *ḥadīth*, even if that word is defined broadly to include reports from Companions and even Successors as well as from the Prophet. It is, rather, a book of ‘amal (“practice,” but not, as we shall see, simply “local practice”) or, to be more precise, a book of *ḥadīth* put into the context of ‘amal. That is, the book is ostensibly a record of various types of *ḥadīth*, but the key phrases in it are not so much those in the actual *ḥadīths*—which may be at variance with one another—as those

⁶⁷ See ‘Iyād, *Madārik*, vol. i, 200; Schacht, “Some Manuscripts in Kairouan,” 244-45; Sezgin, *GAS*, vol. i, 460.

⁶⁸ See ‘Iyād, *Madārik*, vol. i, 200; Schacht, “Some Manuscripts in Kairouan,” 235-37; Sezgin, *GAS*, vol. i, 460.

⁶⁹ See ‘Abdallāh b. Wahb, *Kitāb al-muḥāraba*, 54.

⁷⁰ See ‘Iyād, *Madārik*, vol. i, 200, 357 (Ibn Nāfi‘), 433 (Ibn Wahb).

⁷¹ For a more extensive critique of Calder’s thesis, the reader is referred to my review of his *Studies in Early Muslim Jurisprudence* in *Journal of Islamic Studies*, vol. v (1994), 102-08.

⁷² See Mālik, *al-Muwaṭṭa’*, ed. ‘Abd al-Bāqī, Introduction, i; Ibn Abī Hātim, *Taqdīmat al-ma’rifa li-kitāb al-jarḥ wa’l-ta’dīl* (Hyderabad: Dā’irat al-Ma’ārif, 1371/1952), 12.

in which Mālik sums up a point by saying *al-sunna ‘indanā* (“the *sunna* here”), or *al-sunna allatī lā ikhtilāfa fihā ‘indanā* (“the *sunna* about which there is no dispute here”), or *al-amr ‘indanā* (“the practice here”), or *al-amr al-mujtama‘ ‘alayhi ‘indanā* (“the agreed practice here”), or *al-amr alladhī lā ikhtilāfa fihi ‘indanā* (“the practice about which there is no dispute here”), or some such phrase. In other words, there may be different, conflicting reports on a subject, but what should be done in any one case is what is, or was, done in Madina.⁷³

Secondly, it is important to recognise Mālik’s high reputation for excellence and accuracy in *ḥadīth*-transmission, indeed in the transmission of knowledge in general. He was a past-master at the formal report and is praised as such by all the major scholars of *ḥadīth*.⁷⁴ Indeed, the *isnād* “Mālik-Nāfi‘-Ibn ‘Umar,” for instance, is considered by al-Bukhārī and others to be the “golden chain” of authority (*silsilat al-dhahab*).⁷⁵ However, as is implicit in the first point, it is not the formal report that primarily concerns him but rather the *fiqh*, or correct understanding (to use the word in its original sense), of such reports.

⁷³ It should be briefly noted here that *‘amal* as used in this context is understood to derive from the time of the Prophet (the “*sunna*” element), along with an additional element of *ijtihād*, “independent judgment,” from later authorities (implicit in the term “*amr*”). For a fuller discussion of the different terms used by Mālik to distinguish different categories of *‘amal*, and the nature and authority of Madinan *‘amal* in general, the reader is referred to my article, “*Sunna, Hadith and Madinan ‘Amal*,” *Journal of Islamic Studies*, vol. iv (1993), esp. 7-10, 13-14.

⁷⁴ For praise of Mālik by later scholars it is sufficient to look at any of the entries on him in the main biographical works, e.g. Ibn Abī Ḥatīm, *Taqdima*, 11-25, 30-31; Abū Nu‘aym, *Hilyat al-awliyā’* (Cairo: Maṭba‘at al-Sa‘āda, 1351-57/1932-38), vol. vi, 316-32; al-Dhahabī, *Tadhkirat al-huffāz* (Hyderabad: Dā‘irat al-Ma‘ārif, 1375-77/1955-58), vol. i, 189-92; Ibn Ḥajar, *Tahdhīb*, vol. x, 5-9. It is interesting to note that one modern scholar who has worked intensively on *ḥadīth* confirms this judgment on Mālik, coming to the conclusion that *ḥadīths* narrated through Mālik are not only highly consistent but “outstanding in their uniformity” (see Ifṭikhar Zaman, “The Science of *Rijāl* as a Method in the Study of Hadiths,” *Journal of Islamic Studies*, vol. v [1994], 3, 11, 18).

⁷⁵ See, for example, al-Nawawī, *Tahdhīb al-asmā’*, ed. Ferdinand Wüstenfeld (Göttingen: London Society for the Publication of Oriental Texts, 1842-47), 531; Ibn Khallikān, *Wafayāt al-a‘yān* (Cairo: Maṭba‘at Būlāq, 1299 [1882]), vol. ii, 198; al-Dhahabī, *Siyar a‘lām al-nubalā’* (Beirut: Mu‘assasat al-Risāla, 1401-09/1981-88), vol. viii, 102; Ibn Ḥajar, *Tahdhīb*, vol. x, 6. Schacht’s criticism of this *isnād* (*Origins*, 176-79) has in turn been criticized by, among others, James Robson (“The *Isnād* in Muslim Tradition,” *Transactions of the Glasgow Oriental Society*, vol. xv [1954; published 1955], 22-23) and Muhammad Mustafa Azmi (*Studies in Early Hadith Literature* [Beirut: al-Maktab al-Islāmī, 1388/1968], 244-46; idem, *On Schacht’s Origins of Muhammadan Jurisprudence* [Riyadh, New York &c: King Saud University, John Wiley & Sons, 1985], 171). A recent article by Juynboll also casts doubt—to my mind unconvincingly—on the historicity of this *isnād* but, interestingly, finds fault with Schacht’s criticism (see Gautier H.A. Juynboll, “Nāfi‘, the *mawla* of Ibn ‘Umar,” *Der Islam*, vol. xx [1993], esp. 217, n. 7).

Accuracy of transmission is only one requirement: what is more important is an accurate understanding of the material.

Mālik combined both these qualities. He was described by Aḥmad b. Ḥanbal as “an *imām* in *ḥadīth* and *fiqh*,”⁷⁶ while the famous *ḥadīth* scholar Ibn Mahdī expressed the idea very clearly when he said: “Al-Thawrī is an *imām* in *ḥadīth* but not an *imām* in *sunna*. Al-Awzā‘ī is an *imām* in *sunna* but not an *imām* in *ḥadīth*. Mālik, however, is an *imām* in both.”⁷⁷ Being an *imām* in both meant, firstly, that he knew the context in which to evaluate the normative value of *ḥadīths*; secondly, that he knew the opinions of his predecessors arising from, but not necessarily covered by, those *ḥadīths*; and thirdly, that he knew how to derive his own secondary judgments from this primary material. That is, he had an understanding (*fiqh*) of the *dīn* and its normative form (*sunna*). Without this understanding, *ḥadīths*, however authentic, could easily be a source of misguidance and error rather than a source of knowledge and enlightenment. Thus Ibn Wahb is recorded as saying, “Anyone who knows a *ḥadīth* but does not have an *imām* in *fiqh* is astray (*ḍāll*); and if Allah had not saved us through Mālik and al-Layth we would have gone astray”;⁷⁸ and Ibn ‘Uyayna is recorded as saying, “*Ḥadīths* are a source of misguidance (*maḍilla*) except for the *fuqahā*’.”⁷⁹

If, therefore, Mālik records a *ḥadīth* and then gives a judgment seemingly to the contrary, we have to assume that there was a good reason for him doing so.

What could that reason be?

A very significant statement is recorded about Mālik on this point. ‘Iyād records that both Ibn al-Qāsim and Ibn Wahb said, “I saw that with Mālik *‘amal* was stronger than *ḥadīth*.”⁸⁰ Now, what does this mean—about Mālik, the past-master at relating *ḥadīth*, and the man

⁷⁶ See ‘Iyād, *Madārik*, vol. i, 132; al-Dhahabī, *Siyar*, vol. viii, 84.

⁷⁷ See Abū Nu‘aym, *Hilya*, vol. vi, 332; ‘Iyād, *Madārik*, vol. i, 132; also Ignaz Goldziher, *Muhammedanische Studien* (Halle: Max Niemeyer, 1889-90), vol. ii, 12.

⁷⁸ Ibn Abī Zayd al-Qayrawānī, *Kitāb al-Jāmi‘* (Beirut, Tunis: Mu‘assasat al-Risāla, al-Maktakba al-‘Atīqa, 1402/1982), 119; cf. Ibn ‘Abd al-Barr, *al-Intiqā’ fī faḍā’il al-a’imma al-thalātha al-fuqahā’* (Maktabat al-Qudsī, 1350 [1931]), 31.

⁷⁹ Ibn Abī Zayd, *Jāmi‘*, 118.

⁸⁰ ‘Iyād, *Madārik*, vol. i, 66; Robert Brunschvig, “Polémiques médiévales autour du rite de Mālik,” *Andalus*, vol. xv (1950), 418. For similar comments by Mālik, see Ibn Abī Zayd, *Jāmi‘*, 117; ‘Iyād, *Madārik*, vol. i, 224; Muḥammad ‘Ābid, *Qawl*, 22 (quoting the *Bayān* of Ibn Rushd, the *Madkhal* of Ibn al-Ḥājj and the *Jāmi‘* of Abū Yūnus); also the report from Muḥammad b. Abī Bakr in the citation from ‘Iyād in the following paragraph.

whose commitment and accuracy in the transmission of *ḥadīth* are second to none?

Let us consider two more reports about the subject. ‘Iyāḍ continues:⁸¹

Mālik said: “There were people among the men of knowledge of the Successors who would narrate certain *ḥadīths* and hear other *ḥadīths* from others. They would say, ‘We are not ignorant of this, but the *‘amal* that has come down to us is different.’”⁸²

Mālik said: “I once saw Muḥammad b. Abū Bakr b. Ḥazm—who was a *qāḍī*—being reproached by his brother ‘Abdallāh—who was an honest man with an extensive knowledge of *ḥadīth*—for giving a judgment on a case when there was a *ḥadīth* giving a different judgment. ‘Abdallāh said, ‘Hasn’t such-and-such a *ḥadīth* come down about this?’ Muḥammad replied, ‘It has.’ ‘Abdallāh said, ‘Then why don’t you give your judgment according to it?’ Muḥammad replied, ‘But what is the position of the people with regard to it?’—i.e. [what is] the agreed *‘amal* in Madina, by which he meant that the *‘amal* of Madina was stronger than *ḥadīth*.”⁸³

Again, why should this be so? What does this mean?

It means, quite simply, that Mālik saw *‘amal* as a better indicator of *sunna* than *ḥadīth*. As Rabi‘a, one of Mālik’s main teachers, is recorded to have said, “One thousand from one thousand is preferable to me than one from one. One from one would tear the *sunna* right out of your hands.”⁸⁴ “One thousand from one thousand” means a large number of Successors taking from a large number of Companions, which was only possible in Madina, and implies a transmission that was primarily by practice (*‘amal*) rather than by text (*ḥadīth*). “One from one,” on the other hand, was the situation in the rest of the Muslim world where individual Successors took their knowledge from individual Companions, and on a more overtly textual basis. (“Textual” here does not necessarily mean “documented in written form” so much

⁸¹ See ‘Iyāḍ, *Madārik*, vol. i, 66; Brunschvig, “Polemiques,” 418.

⁸² This report is also transmitted in the *‘Uṭbiyya* (see Ibn Rushd, *Bayān*, vol. xvii, 604; also Schacht, “On Some Manuscripts in Morocco,” 29) and in Ibn Abi Zayd’s *Jāmi‘* (118).

⁸³ For the same report, with slight variations, see Ibn Rushd, *Bayān*, vol. xvii, 331; al-Ṭabarī, *Tārīkh al-rusul wa’l-mulūk*, ed. Michiel Johannes de Goeje *et al.* (Leiden: E.J. Brill, 1879-1901), vol. iii, 2505 (mentioned in Schacht’s *Origins*, 64); Wakī‘, *Akhbār al-quḍāt*, ed. ‘Abd al-‘Aziz Muṣṭafā Marāghī (Cairo: Maṭba‘at al-Istiḳāma, 1366/1947), vol. i, 176; Ibn Abi Zayd, *Jāmi‘*, 118. For variants in the *Madārik* report itself, see ‘Iyāḍ, *Madārik*, ed. Muḥammad Tāwīt al-Ṭanjī *et al.* (2nd ed., Mohammedia: Wizārat al-Awqāf wa’l-Shu‘ūn al-Islāmiyya, 1402-03/1982-83), vol. i, 45.

⁸⁴ See ‘Iyāḍ, *Madārik*, vol. i, 66; Brunschvig, “Polémiques,” 419.

as “transmitted in a fixed, linguistic form,” such as is the case, for instance, with the “text” of the Qur’an.) Thus this ‘amal of the Madinans—this “one thousand from one thousand” knowledge of how the *sharī‘a* was put into practice—automatically had in their view a higher authority than most *ḥadīths*, since ‘amal had the status of being *mutawātir*, that is, transmitted by so many Companions that there could be no reasonable doubt about its authenticity, whereas most *ḥadīths* were not *mutawātir* but *akhbār al-āḥād*, that is, reports only from individual authorities.

It should, however, be emphasised that ‘amal and *ḥadīth* are by no means mutually exclusive. Rather, ‘amal may or may not be recorded by *ḥadīth*, and *ḥadīth* may or may not record ‘amal. Where they overlap they are a strong confirmation of each other, but where there is a contradiction ‘amal is preferred to *ḥadīth* by Mālik and the Madinans, even when the sources of these *ḥadīth* are completely trustworthy.

It is for this reason that *sadl* is preferred to *qabḍ* by Mālik and the Madinans,⁸⁵ even though, as we have seen, there are numerous *ḥadīths* to the contrary in the major collections and nothing in them that overtly contradicts this position. This way of standing for the prayer with one’s hands by one’s sides, as also the standard way of doing the *adhān* in Madina, or the way of reciting the *Fātiḥa* in the prayer without beginning with *bi-smi’llāhi ’l-raḥmāni ’l-raḥīm*, or the size of the measures known as *ṣā‘* and *mudd*, to name but a few other examples, were matters that were not initially recorded in the form of *ḥadīth* but were nevertheless generally known amongst the people and understood to have originated as *sunna* in the time of the Prophet.⁸⁶ Other practices, although recorded in authentic *ḥadīths* and even transmitted, for example, in the *Muwatta’*, were not acted upon precisely because they did

⁸⁵ For exceptions to this generalised statement about “Mālik and the Madinans,” see the opinions noted in n. 4 above, especially the view recorded from Muṭarrif and Ibn al-Mājishūn—two Madinan followers of Mālik—that the preferred way is *qabḍ*. However, despite their being in Madina, it is never claimed that these two authorities had the best knowledge of Mālik’s opinions, which is considered rather to be the especial preserve of his Egyptian followers, particularly Ibn al-Qāsim (see above, n. 4). It is also evident from the argument for ‘amal outlined above that Mālik would not have preferred *sadl* unless it were the practice of at least a large number of the ‘ulamā’ of Madina at and before his time (of whom the famous Madinan Successor and *faqīh* Sa’id b. al-Musayyab would have been one; see above, p. 27).

⁸⁶ It may be noted here that the *ḥadīth* recording the Madinan way of doing the *adhān* in *Mud.* vol. i, 57, has a Makkan *isnād*, while the *ḥadīth* about beginning the prayer without the *basmala* (*Muw.* vol. i, 78; *Mud.* vol. i, 67) has a Basran *isnād*. In other words, there were no *ḥadīths* on these subjects in Madina because there was no need for them.

not represent the *sunna*. In other words, they were either exceptional instances, or earlier judgments that had later been changed, or otherwise minority opinions that held little weight and which, even though they derived from the Prophet, were nevertheless outweighed by other judgments also deriving from the Prophet. This was why Ibn ‘Uyayna could say that *ḥadīths* were a source of misguidance except for the *fuqahā’*, and Mālik that *‘amal* was more reliable than *ḥadīth*.⁸⁷

It is here that we can also see the significance of the Shī‘a/Khawārij agreement on *sadl*. These groups split away from the main body of the Muslims at a very early date and on questions of belief and political authority rather than on details of *fiqh*. Their agreement on *sadl* is thus strong confirmation of the “ancient,” indeed Prophetic, origin of this *‘amal*, since there would have been no reason for them to invent such a detail. The obvious inference is that they were merely continuing an already established practice.

The implications of this are far-reaching. Firstly, it means that, like the modern, revisionist school of Western scholarship represented by Schacht and his followers, we must seriously question the view of “*sunna* equals [Prophetic] *ḥadīth*” that is taken by the average Muslim scholar today, and has been taken by most since somewhere in the middle of the third century AH. However, unlike the revisionists, the above critique does not enable us to discard the vast majority of *ḥadīth* as a belated attempt to give authority to what was originally local practice. The *ḥadīth* literature (albeit in a predominantly oral form) existed—Mālik’s *Muwatta’a* is ample testimony to that—but it was subservient to *‘amal*. What we see happening in the burgeoning of the *ḥadīth* collections of the third century is a response to this redefinition of *sunna* within the ranks of the *‘ulamā’* and the concomitant creation of a Prophetic-*ḥadīth* imperative. Once *fiqh* became based on Prophetic *ḥadīth* rather than Prophetic *sunna*, it was a natural and necessary step to seek to collect everything one could by way of a *ḥadīth* from the Prophet, even if perhaps a little “weak,”⁸⁸ and at the same time discard, or disregard, the material from later, post-Prophetic authorities: hence the highly “edited” nature of all the major third century collections of *ḥadīth*.

As for the *‘amal*, or practice, of Madina being local, it was indeed local in that it originated, flourished and was first recorded in Madina

⁸⁷ See above, pp. 35-36.

⁸⁸ Ibn Ḥanbal, for example, is known for preferring a weak *ḥadīth* to no *ḥadīth* at all (see ‘Iyāḍ, *Madārik*, vol. i, 96).

rather than anywhere else, but that was because the *sunna* of the Prophet originated, flourished and was first recorded in Madina rather than anywhere else. No other city in the Muslim world ever claimed the same authority for its own ‘*amal*’ as did the Madinans (to the extent, that is, that any other city could be said to have had its own ‘*amal*’). Rather, there was Madina, the center of the Prophetic phenomenon, and there were individuals who went out from it. There was “one thousand from one thousand” in Madina, and there was “one from one” everywhere else. However, with the advent of the work of those such as al-Shāfi‘ī (d. 204/820) who, in the face of wide disagreement on details among the *fuqahā’* of his time, wanted to impose some sort of logical standard on the entire corpus of *fiqh*, the traditional, non-textual argument of ‘*amal*’ was subjected to the logical standards of textual, particularly *isnād*-, criticism. Thus *sunna*, which had once been contained in Madinan ‘*amal*’ (Mālik’s “*al-sunna ‘indanā*” and “*al-sunna allatī lā ikhtilāfa fihā ‘indanā*”) became redefined as Prophetic *ḥadīth*, and the anonymous, no-*isnād* nature of the authority underlying ‘*amal*’ was rejected in the face of the demands of the new scholarship for an authentic *isnād* in which every man had to be known and trustworthy. “Who are these people,” al-Shāfi‘ī effectively asks, “because of whose ‘*amal*’ these *ḥadīths* are not acted upon?”⁸⁹ thus putting his own position and that of those like him very clearly. Indeed, one would agree with Schacht that it is al-Shāfi‘ī, with his insistence that only those rulings backed up by good *textual* credentials should be accepted as the basis of the *sharī‘a*, who should be considered responsible for, or at least at the forefront of, the widespread acceptance of the idea that

⁸⁹ E.g. al-Shāfi‘ī, *Umm*, vol. vii, 214 (l. 31): *fa-‘amal man ta’nī tukhālifu bihi sunnat rasūli-llāh ...* (“Whose ‘*amal*’ is it by whose authority you go against the *sunna* of the Messenger of Allah ...?”); *ibid.*, vol. vii, 217 (margin): *fa-qad a’yānā an najida ‘inda aḥad ‘ilm ḥā’ulā’i alladhina idhā ‘amilū bi’l-ḥadīth thabata ‘indahū wa-idhā tarakū al-‘amal bihi saqāta ‘indahū ... fa-yā layta shi’rī man ḥā’ulā’i alladhina lam a’lamhum khuliqū thumma yuḥtajju bi-tarkihim al-‘amal wa-ghaflatihim* (“We have failed to find anyone who has the knowledge [i.e. presumably, of texts] of these people, such that if they have acted according to a *ḥadīth*, he will consider it reliable, but if they have not acted according to it, he will reject it ... If only I knew who these people were who I do not even know to have been born but whose lack of ‘*amal*’ and unawareness [i.e. presumably, ignorance of, or refusal to consider, a *ḥadīth*] is used as an authoritative argument!”). For the same attitude in the Iraqi scholar Abū Yūsuf (d. 182/798), see, for example, *ibid.*, vol. vii, 311 (l. 28): *fa-man al-imām alladhī ‘amila bi-ḥādthā wa’l-‘ilm alladhī akhadha bihi ḥattā nanẓura a-huwa ahl li-an yuḥmala ‘anhu ma’mūn ‘alā al-‘ilm aw lā* (“Who then is the authority who acted in this way, and [what is] the knowledge [i.e. *ḥadīth*] that he based it upon, so that we can judge whether he is a suitably qualified and trustworthy transmitter of knowledge or not?”).

“*sunna* equals *ḥadīth*,” although one would also agree with Schacht that the tendency seems to have begun in Iraq.⁹⁰

What we thus see illustrated by the major third century collections of *ḥadīth* in their almost total reliance on Prophetic material to the exclusion of any other, and what we see reflected in the rejection of *sadl* for *qabḍ* by the later Sunnī *madhhabs* (and several later Mālikīs) is the rejection of *sunna* as transmitted by *‘amal* in favor of *sunna* as transmitted by *ḥadīth*. In both cases this *sunna* was understood as being the *sunna* of the Prophet. What differed was the methodology by which such knowledge was arrived at, and thus the details of its practical expression, namely, the differences in the details of *fiqh*. The rejection of *‘amal* in favor of *ḥadīth* was the triumph of the methodology of “one from one” over that of “one thousand from one thousand” and, as the report from Rabī‘a continues, “One from one would tear the *sunna* right out of your hands.” This suggests that if we want to arrive at a clearer picture of the original “*sunna* of the Prophet,” we would do better to look at Madinan *‘amal* than at the classical collections of *ḥadīth*.

⁹⁰ See Schacht, *Origins*, 58, 59, 77, 80, where the shift in definition of the word *sunna* evident from al-Shāfi‘ī’s writings is most forcefully noted. (This indeed I consider the strongest point in Schacht’s critique. What I disagree with is his understanding of what *sunna* meant *before* it became redefined as *ḥadīth*.) For this shift happening *via* Iraq, see, for example, Zafar Ishaq Ansari, “The Early Development of Islamic Fiqh in Kufa” (unpublished Ph.D. thesis, McGill University, 1968), *passim*, esp. 14, 23-24, 176, 212, 234, 243, 250, 370, 377, 381; also *Origins*, 73, 77, 80, 223, where Schacht argues that Islamic jurisprudence—which one can see as the formalisation of *‘amal*—began in Iraq. Note also the attitude expressed in Abū Yūsuf’s comment in n. 89 above.